

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

NATHANIEL K. SINGLETON, #716045                           §  
   §  
V.   § CIVIL ACTION NO. G-02-255  
   §  
LT. SWEET   §

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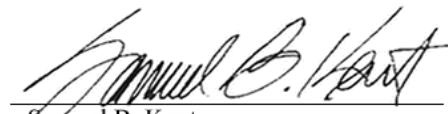
**ORDER OF DISMISSAL**

Before the Court for its Order of Acceptance is a Report and Recommendation of the United States Magistrate Judge, entered on July 19, 2005, which recommends that Defendant's Motion to Dismiss for failure to exhaust administrative remedies be granted. Plaintiff has filed a Motion for Reconsideration, which purports to be objections to the Report and Recommendation. In his Motion, Plaintiff states that he did exhaust administrative remedies regarding the excessive use of force claim against Defendant Sweet, and included copies of the grievances in his Motion. A review of the grievance documents reveals, however, that they are not grievances requesting relief for an alleged use of excessive force against the Plaintiff; rather, they are the Step One and Step Two appeals from a disciplinary case of which the alleged excessive use of force was a part, and which request a reversal of the disciplinary finding. It therefore appears that Plaintiff did not file Step One and Step Two grievances seeking relief for an alleged excessive use of force and has not, therefore, exhausted the mandatory grievance process.

After *de novo* review pursuant to 28 U.S.C. §636 (b)(1)(C), this Court is of the opinion that the Report and Recommendation of the Magistrate Judge should be, and it is hereby, **ACCEPTED** in its entirety and incorporated by reference herein. It is the **ORDER** of this Court that Defendant's

Motion to Dismiss is **GRANTED** and this cause is **DISMISSED** with prejudice for failure to exhaust administrative remedies.

**DONE** at Galveston, Texas, this the 20<sup>th</sup> day of September, 2005.



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Samuel B. Kent  
United States District Judge